

STATE OF MICHIGAN  
COURT OF APPEALS

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LONNIEL WARREN,  
Plaintiff-Appellant,

UNPUBLISHED  
April 19, 2007

v

No. 269247  
Washtenaw Circuit Court  
LC No. 05-001190-DZ

EUGENE J. BROWN,  
Defendant,  
and

IVORY WRIGHT,  
Defendant-Appellee.

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Before: White, P.J., and Zahra and Kelly, JJ.

KELLY, J. (*dissenting*).

I respectfully dissent because Aidan's adoption by Ivory Wright and Kimberly Wright was not a stepparent adoption. The adoption code treating stepparent adoption, MCL 710.51(6), contemplates a fact pattern that does not exist in this case. MCL 710.51(6) provides for an adoption of a child by a stepparent as follows:

If the parents of a child are divorced, or if the parents are unmarried but the father has acknowledged paternity or is a putative father who meets the conditions in section 39(2) of this chapter, *and if the parent having legal custody of the child subsequently marries and that parent's spouse petitions to adopt the child, the court upon notice and hearing may issue an order terminating the rights of the other parent* if both of the following occur:

(a) The other parent, having the ability to support, or assist in supporting, the child, has failed or neglected to provide regular and substantial support for the child or if a support order has been entered, has failed to substantially comply with the order, for a period of 2 years or more before the filing of the petition.

(b) The other parent, having the ability to visit, contact, or communicate with the child, has regularly and substantially failed or neglected to do so for a period of 2 years or more before the filing of the petition. [Emphasis added.]

“The primary purpose of MCL 710.51(6) is to ‘foster stepparent adoptions in families where the natural parent had regularly and substantially failed to support or communicate and visit with the child’ yet refused or is unavailable to consent to the adoption.” *In re Newton*, 238 Mich App 486, 492; 606 NW2d 34 (1999), citing *In Re Colon*, 144 Mich App 805, 810; 377 NW2d 321 (1985) “Indeed, the clear purpose of the statute is to allow the creation of a two-parent family where one did not exist before.” *Newton, supra* at 493.

Here, while Ivory Wright, joined by his wife Kimberly Wright, petitioned to adopt Aidan, he did not do so while he was April Marie Warren’s spouse. Moreover, clearly Kimberly Wright was not petitioning for adoption as a stepparent. Further, the record does not reflect that the parental rights of Eugene Brown, Aidan’s putative biological father, were terminated as contemplated in MCL 710.51(6)(a) and (b). Rather, the Wrights adopted Aidan as full guardians. MCL 710.24.

Thus, I believe that the Wrights’ adoption of Aidan was not an exception to the general rule that an adoption of a child under the adoption code terminates the right of a grandparent to commence an action for grandparenting time with that child. I would affirm.

/s/ Kirsten Frank Kelly